



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 12, 1998

Ms. Mercedes Leal
Assistant County Attorney
Harris County
1001 Preston Suite 634
Houston, Texas 77002-1891

OR98-1449

Dear Ms. Leal:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116102.

The Harris County Hospital District (the "district") received a request for the following:

Any information and correspondence since January 1, 1998 with "Affiliated Medical Services" (AMS) regarding proposed budget cuts and their impact on services that are provided by AMS for the Harris County Hospital District.

You contend that the requested information is excepted from disclosure pursuant to sections 552.101 and 552.104 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.104 excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." The purpose of this exception is to protect a governmental body's interests in competitive bidding situations. *See* Open Records Decision No. 592 (1991). Section 552.104 requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a competitor will gain an unfair advantage will not suffice. Open Records Decision No. 541 (1990) at 4. Section 552.104 does not except information relating to competitive bidding situations once a contract has been awarded. Open Records Decision Nos. 306 (1982), 184 (1978).

You explain that AMS and the district entered into an agreement effective July 1, 1990 for AMS to provide medical care at district facilities. The agreement calls for AMS and the district to negotiate the contract amount and provider staffing levels annually. However, AMS and the district have been unable to reach an agreement on these terms for the upcoming contract year. You state that if an agreement cannot be reached, the district will have to find other physician providers to provide medical care at district facilities. Because the district has not finalized the terms of its agreement with AMS and may be forced to seek the services of other physician providers, we find that releasing the requested information at this time would harm the district's interests. Thus, we conclude that the district may withhold the information from disclosure under section 552.104 until it finalizes an agreement for the provision of medical care at its facilities.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 116102

Enclosures: Submitted documents

cc: Mr .Robert Henslee
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(w/o enclosures)